

Exhibit 5

From: [Doukas, Maria E.](#)
To: [Emily L. Savas](#); [Lo, Shon](#); [McCormick, Theodora](#); [Cooper, Lauren](#); [Jacob Britz](#); [Michael Gaertner](#); [James T. Peterka](#); [Tim Peterson](#)
Cc: [ML - Salix - DNJ](#)
Subject: RE: Salix v. Zydus (rifaximin) - deficiency letter
Date: Friday, June 27, 2025 5:50:20 PM

Counsel,

Thank you for meeting and conferring today. We wanted to memorialize our discussion and follow-up on some of the 30(b)(6) topics we discussed.

- **Plaintiffs' RFP Nos. 11, 21, and 23:** Zydus agreed to produce representative sales forecast documents kept in the ordinary course responsive to RFP Nos. 21 and 23 and stated that if the produced documents are insufficient for purposes of RFP No. 11, we can revisit that at a later date. Zydus, however, could not provide a date certain by when Plaintiffs would receive that set of responsive documents. With fact discovery closing in 3 weeks, Zydus' refusal to provide a date certain by when we will receive these documents and statement that we can assess those documents to determine if further action is needed on RFP No. 11 is prejudicial to Plaintiffs. Zydus agreed to produced documents responsive to these requests on March 19th as part of its Objections and Responses to the RFPs. **By Monday at 12 pm ET, please confirm that Zydus will produce documents responsive to RFP Nos. 11, 21, and 23 by no later than Monday, July 7th. If we do not receive this confirmation, we will seek relief from the Court.**
- **Plaintiffs' Rule 30(b)(6) Topics:** To facilitate a resolution and avoid burdening the Court, Plaintiffs will agree to forego certain topics, as listed below, and will agree to narrow certain topics per our comments below. We will not agree to drop Topics 15 or 18, however, as we believe these topics are relevant to issues in the case. To the extent Zydus has privilege concerns, it can raise those objections on the record during the deposition. **Please confirm by no later than Monday at 12 pm ET that Zydus will provide a witness to testify as to these narrowed topics and to Topics 15 and 18 or we will seek relief from the Court.**
 - Plaintiffs agree to forego 30(b)(6) testimony on the following topics. Plaintiffs' agreement to forego these topics should not be understood as acquiescence that the topics are not relevant to issues in the case but instead is a means to facilitate the resolution of outstanding disputes without needing to burden the Court:
 - Topics 5, 12-14, 16-17, 19, 20, 21, 24-26
 - Plaintiffs can agree to narrow the following topics as stated.
 - **Topic 1:** Plaintiffs agree to narrow this topic to the following sections of the

ANDA:

- 1.2 Cover Letter; 1.3.5 Patent and exclusivity; 1.12 Other correspondence; 1.14 Labeling; 2.3 Quality Overall Summary; 2.7 Clinical Summary; 3.2.S Drug Substance; 3.2.P Drug Product; 5.3 Clinical study reports and related information.
- **Topic 2:** Plaintiffs agree to narrow this topic to testing of the polymorphic forms of rifaximin in the drug product; testing of water content in the drug product; bioequivalence testing of the drug product.
- **Topic 4:** Plaintiffs agree to narrow this topic to polymorphic forms of the rifaximin drug substance and polymorphic forms of excipients used in the ANDA Product.
- **Topic 11:** Plaintiffs agree to narrow this topic to all controlled correspondence (pre-filing) with FDA regarding Q1/Q2 similarity/sameness and all correspondence with FDA regarding polymorphism in the rifaximin drug substance and/or drug product, as well as correspondence with FDA regarding long-term stability studies of the ANDA Product.
- **Topic 22:** We disagree with your position that bioequivalence studies are not relevant to issues in the case for reasons discussed on the meet and confer. To address concerns over the language “study design, testing, and results,” Plaintiffs can agree to the following language for the topic: Defendants’ bioequivalence studies described in the ANDA and communications to and from FDA regarding bioequivalence between Zydus’ ANDA Product and the RLD.
- **Topic 23:** Plaintiffs agree to narrow this topic to the analysis of polymorphic forms of Xifaxan, comparative dissolution studies involving Xifaxan, and any reverse-engineering efforts involving Xifaxan.
- **Identification of Witnesses and 30(b)(6) Topic Designation:** Zydus would not commit to a date certain by when it will identify witnesses and 30(b)(6) topic designations. As noted, fact discovery is set to close in less than a month. Plaintiffs served their Notice of Deposition pursuant to 30(b)(6) on Zydus nearly two months ago on May 6th. Zydus has had ample time to identify witnesses who will testify as to each topic, and its continued delay only serves to prejudice Plaintiffs. **Please provide us with witness names and designated topics for each witness by no later than Monday at 12 pm ET or we will seek relief from the Court.**

Because Zydus raised that Plaintiffs have not yet identified witnesses and 30(b)(6) topics on the meet and confer, Plaintiffs note that Defendants served their 30(b)(6) notice less than a month ago

on June 11th. Despite this, Plaintiffs intend to provide witness names and topic designations on Monday. Zydus has no basis to continue delaying its identification of witnesses and topic designations.

Kind regards,
Maria

Maria E. Doukas

Morgan, Lewis & Bockius LLP

110 North Wacker Drive, Suite 2800 | Chicago, IL 60606-1511
Direct: +1.312.324.1454 | Main: +1.312.324.1000 | Fax: +1.312.324.1001
maria.doukas@morganlewis.com | www.morganlewis.com



From: Doukas, Maria E. <maria.doukas@morganlewis.com>

Sent: Tuesday, June 24, 2025 3:33 PM

To: Emily L. Savas <emily.savas@bipc.com>; Lo, Shon <shon.lo@morganlewis.com>; McCormick, Theodora <tmccormick@bakerdonelson.com>; Cooper, Lauren <lcooper@bakerdonelson.com>; Jacob Britz <jacob.britz@bipc.com>; Michael J. Gaertner <michael.gaertner@bipc.com>; James T. Peterka <james.peterka@bipc.com>; Tim Peterson <tim.peterson@bipc.com>

Cc: ML - Salix - DNJ <ML-Salix-DNJ@morganlewis.com>

Subject: RE: Salix v. Zydus (rifaximin) - deficiency letter

Hi Emily,

We are available on Friday at 11 CT. I will send around a calendar invite.

Kind regards,
Maria

Maria E. Doukas

Morgan, Lewis & Bockius LLP

110 North Wacker Drive, Suite 2800 | Chicago, IL 60606-1511
Direct: +1.312.324.1454 | Main: +1.312.324.1000 | Fax: +1.312.324.1001
maria.doukas@morganlewis.com | www.morganlewis.com



From: Emily L. Savas <emily.savas@bipc.com>

Sent: Monday, June 23, 2025 4:50 PM

To: Lo, Shon <shon.lo@morganlewis.com>; McCormick, Theodora <tmccormick@bakerdonelson.com>; Cooper, Lauren <lcooper@bakerdonelson.com>; Jacob Britz <jacob.britz@bipc.com>; Michael J. Gaertner <michael.gaertner@bipc.com>; James T. Peterka <james.peterka@bipc.com>; Tim Peterson <tim.peterson@bipc.com>

Cc: ML - Salix - DNJ <ML-Salix-DNJ@morganlewis.com>

Subject: RE: Salix v. Zydus (rifaximin) - deficiency letter

[EXTERNAL EMAIL]

Counsel,

We are reviewing your letter and can be available this Friday, June 27, at 10 or 11 am CT to meet and confer.

Regards,

Emily

Emily Savas

Shareholder

Buchanan

[vCard](#) | [Bio](#) | [BIPC.com](#) | [Twitter](#) | [LinkedIn](#)

From: Lo, Shon <shon.lo@morganlewis.com>

Sent: Friday, June 20, 2025 9:12 PM

To: McCormick, Theodora <tmccormick@bakerdonelson.com>; Cooper, Lauren <lcooper@bakerdonelson.com>; Jacob Britz <jacob.britz@bipc.com>; Michael J. Gaertner <michael.gaertner@bipc.com>; James T. Peterka <james.peterka@bipc.com>; Emily L. Savas <emily.savas@bipc.com>; Tim Peterson <tim.peterson@bipc.com>

Cc: ML - Salix - DNJ <ML-Salix-DNJ@morganlewis.com>

Subject: RE: Salix v. Zydus (rifaximin) - deficiency letter

Apologies – the letter is attached to this email.

Shon Lo

Morgan, Lewis & Bockius LLP

110 North Wacker Drive, Suite 2800 | Chicago, IL 60606-1511

Direct: +1.312.324.1742 | Main: +1.312.324.1000 | Fax: +1.312.324.1001

Assistant: Elizabeth Joka | +1.312.324.1759 | elizabeth.joka@morganlewis.com

shon.lo@morganlewis.com | www.morganlewis.com

**GLOBAL IMPACT OF THE
US ADMINISTRATION**
Visit our resource center >

From: Lo, Shon <shon.lo@morganlewis.com>

Sent: Friday, June 20, 2025 8:51 PM

To: McCormick, Theodora <tmccormick@bakerdonelson.com>; Cooper, Lauren <lcooper@bakerdonelson.com>; Jacob Britz <jacob.britz@bipc.com>; Michael J. Gaertner <michael.gaertner@bipc.com>; James T. Peterka <james.peterka@bipc.com>; Emily L. Savas <emily.savas@bipc.com>; Tim Peterson <tim.peterson@bipc.com>

Cc: ML - Salix - DNJ <ML-Salix-DNJ@morganlewis.com>

Subject: Salix v. Zydus (rifaximin) - deficiency letter

Counsel for Zydus,

Please see the attached letter regarding Zydus's discovery deficiencies. We expect a response on Monday June 23 regarding your availability to meet and confer on June 25 as requested in the letter.

Shon Lo

Morgan, Lewis & Bockius LLP

110 North Wacker Drive, Suite 2800 | Chicago, IL 60606-1511

Direct: +1.312.324.1742 | Main: +1.312.324.1000 | Fax: +1.312.324.1001

Assistant: Elizabeth Joka | +1.312.324.1759 | elizabeth.joka@morganlewis.com

shon.lo@morganlewis.com | www.morganlewis.com



CONFIDENTIALITY AND PRIVACY NOTICE: This email is from a law firm and may contain information that is confidential, privileged, and/or attorney work product. This email may also contain personal data, which we process in accordance with applicable data protection laws and our [Privacy Policies and Notices](#). If you are not the intended recipient, you may not review, copy, or distribute this message. If you have received this email in error, please contact the sender immediately and delete all copies from your system.

CONFIDENTIAL/PRIVILEGED INFORMATION: This e-mail message (including any attachments) is a private communication sent by a law firm and may contain confidential, legally privileged or protected information meant solely for the intended recipient. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is prohibited and may be unlawful. Please notify the sender immediately by replying to this message, then delete the e-mail and any attachments from your system.